

REMARKS

With this Response, no claims are amended, added, or canceled. Therefore, claims 1-38 are pending.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 1-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0039924 of Baldwin et al. (hereinafter "Baldwin") in view of U.S. Patent No. 5,602,918 of Chen et al. (hereinafter "Chen"). These claims are not rendered obvious by the cited references for at least the following reasons.

The Baldwin reference has been addressed by Applicants in previous Responses. Applicants reiterate the problems with Baldwin here, because the defects of Baldwin have significant bearing on the overall defectiveness of the obviousness rejection asserted in the Office Action.

Baldwin does not support the interpretation asserted in the Office Action. The Office Action asserts at page 2 that Baldwin discloses an embedded agent and a storage accessible to the embedded agent. The Office Action points to paragraph [0067] of the reference, which discusses the CryptoEngine previously addressed by Applicants, and the SMM, also previously addressed by Applicants. The Office provides **no reasoning** to explain what is purported to be an embedded agent. In fact, the Office Action appears to repeat what Applicants previously showed to be incorrect.

Baldwin, rather than anticipating Applicants' claims, teaches away from Applicants' claims, having storage only **directly accessible** to the host processor, and requiring the use of the host processor in its operations. Nowhere is an embedded agent disclosed.

Regardless of having an embedded agent or not, Applicants must again point out that, significantly, Baldwin only discloses a memory that is directly accessible to the processor, as the Office has acknowledged. At the core of operation of the Baldwin reference, the reference requires the storage to be directly accessible to the host processor. Any combination of Baldwin with any other reference purported to have a storage not directly accessible by the host processor is not proper. Per MPEP § 2143.01(V), a "proposed modification [of a reference in a rejection] cannot render the prior art unsatisfactory for its intended purpose." If the teachings of Baldwin were modified such that the host processor could not access the memory, the reference would be

unsatisfactory for its intended purpose, seeing the system of the reference would be incapable of acquiring the data from the memory that is required to perform its operations.

Furthermore, per MPEP § 2143.01(VI), a "proposed modification [of a reference in a rejection] cannot change the principle of operation of [the] reference." For similar reasons, any modification of Baldwin such that the reference no longer had the subject memory directly accessible to the host processor would require significant modification of the system described in the reference. Simply stated, the principle of operation of the reference would require significant modification to operate as asserted in the Office Action, or to work with any other reference purported to have a memory independent of the host processor, in contrast to MPEP § 2143.01. The system would not function as described if the host processor could not access the memory.

The discussion above leads into the Chen reference. As a first matter, even if the Chen reference discloses what is asserted in the Office Action (which it does not, for at least the reasons set forth below), it would not be properly combinable with the Baldwin reference. Furthermore, the rejection based on Chen is based on a misreading of the reference.

The Office Action at page 3 asserts that "the shared secret key [of Chen] is inaccessible even to the **user processor** of the card (e.g., host processor of the client)...." The section of the reference relied upon actually states: "The smartcard has stored thereon a shared secret key which is preferably inaccessible even to the **user possessor** of the card," Thus, the Office Action interprets "user processor" as Applicants' claimed host processor, but the reference never mentions a "user processor." Rather, the Office Action relies on a misreading of the phrase "user possessor," i.e., a person, or one who is a user of the smartcard, and **possesses** or has physical control over the smartcard.

Applicants note that this application was appealed principally upon the feature of Applicants' claims of reciting something inaccessible, transparent, or otherwise independent from the host processor. With this in mind, Applicants express exasperation at the fact that the application was then removed from Appeal by the Office to reopen prosecution, only to reject the case on the same point appealed, and under a broad interpretation of a misreading of a cited reference. The rejection in the Office Action of the reopened prosecution does not even have a colorable basis for support. Such action by the Office prejudices Applicants by having to expend time and resources to address such a rejection.

Besides what is already set forth above, Applicants note that Chen suffers at least the same defect as Baldwin. More particularly, once the system in Chen authenticates the user (i.e., the user possessor) of the smartcard, the client node has access to information stored on the smartcard to send to a remote entity on the network. See, for example, col. 4, lines 43 to 67.

Thus, each of the references separately describes a system where a memory holding cryptographic information is accessible to the host processor of a device. In direct contrast to the references, Applicants' claims all recite features directed to something inaccessible, transparent, or otherwise independent from the host processor. See above: "a storage" in claims 1 and 29, "a network link" in claim 11, and "a communication channel" in claim 22. Thus, whether alone or in combination, the references are incapable of disclosing or suggesting at least one feature of the claimed invention, and so fail to support an rejection of the independent claims per MPEP § 2143.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections are overcome, and respectfully requests that the rejections be withdrawn. Therefore, all pending claims are in condition for allowance, and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

Date: September 30, 2008

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